

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re:

Joseph G. DuMouchelle, and
Melinda J. Adducci

Chapter 7
Case No. 19-54531
Hon. Phillip J. Shefferly

Debtors.

Teodor Gelov,

Plaintiff,

v.

Joseph G. DuMouchelle and Melinda
J. Adducci,

Adversary Pro. No. 20-04172

Defendants.

AMENDED REPORT OF PARTIES RULE 26(f) CONFERENCE

Pursuant to Rule 26(f) of the Federal Rules of Civil Procedure, made applicable to this action by Rule 7026 of the Federal Rules of Bankruptcy Procedure, the parties, Teodor Gelov (“Plaintiff”) and Joseph G, DuMouchelle and Melinda J. Adducci (collectively, “Defendants”) conferred on this Amended Rule 26(f) Report (“Amended Report”). This Amended Report is being submitted, based on the prior order of this Court, which stayed this proceeding, pending the completion of a Status Conference on December 9, 2020.

I. Parties participating in the Rule 26(f) conference:

Jay L. Welford, on behalf of Plaintiff.

Patrick foley, on behalf Defendants.

II. Date of the Rule 26(f) conference:

December 1, 2020.

III. Claims of Plaintiff.

Plaintiff seeks a determination that the indebtedness owed to Plaintiff is non-dischargeable under 11 U.S.C. §§ 523. Specifically, that the indebtedness owed to Plaintiff was: (a) procured through false pretenses, false representations and actual fraud, pursuant to 11 U.S.C. §523(a)(2); (b) was the result of fraud or defalcation while acting in a fiduciary capacity, embezzlement or larceny, pursuant to 11 U.S.C. §523(a)(4); and (c) constituted willful and malicious injury by Defendants to Plaintiff and Plaintiff's property, pursuant to 11 U.S.C. §523(a)(6).

IV. Claims of Defendant

Defendant maintains all defenses and affirmative defenses with respect to Plaintiff's claims.

V. Discovery Plan

a. Initial Disclosures required by Federal Rule of Civil Procedure 26(a)(1)

The parties will file new Initial Disclosures, no later than December 18,

2020.

b. Discovery Plan.

1. The parties propose to take discovery on all of Plaintiff's claims and Defendants' defenses. Specifically, discovery will relate to establishing or defeating the factual allegations set forth in the Complaint and any defenses and affirmative defenses of Defendants.
2. All discovery is to be completed by the later of 120 days after the waiver of Defendants' Fifth Amendment Privilege, but not later than August 30, 2021. There is no perceived need to conduct discovery in phases or limited or focused on a particular issue. If, based on the pending criminal proceedings involving Defendants, there is a significant delay in a waiver of the Fifth Amendment Privilege in conjunction with the anticipated January, 2021 sentencing of Joseph DuMouchelle, then the parties may seek a modification of the discovery schedule, based on such a change in circumstance.
3. There shall be no limit on the number of depositions, interrogatories, requests for production of documents or requests for admission, although the parties agree to an

expedited hearing on a party's request that discovery posed be revised or limited, if perceived by the receiving party to be vexatious or interposed for the purpose of delay or harassment.

4. **Plaintiff only further asserts:** In this proceeding, Defendants have failed to substantively answer any of the allegations of the Complaint, on the basis of the invocation of their Fifth Amendment privilege. Therefore, Plaintiff will be required to prove portions of its case from multiple sources, as it is not anticipated that interrogatories, document production requests, depositions or requests for admissions directed to Defendants will provide any substantive responses, admissions or information.
5. Any discovery requests shall be responded to within 30 days from the date of service.
6. Reports from expert witness(es), if any, shall be due on July 30, 2021.
7. Supplementation under Rule 26(e) shall be required.
8. The parties agree that, pursuant to E.D. Mich. LBR 7026-4, the Model Order Relating to the Discovery of Electronically Stored Information approved by the United States District Court for the

Eastern District of Michigan on September 20, 2013, subject to any amendments or revisions made to such Model Order by the United States District Court for the Eastern District of Michigan, shall apply.

9. The extent to which Defendants shall be permitted to assert their Fifth Amendment privilege may require Court determination.
10. No orders of the Court under Rule 26(c) or Rule 16(b) or (c) are contemplated.
11. All potentially dispositive motions should be filed by October 15, 2021.
12. The proceeding should be ready for trial by the later of 15 days after determination of any dispositive motions, or December 1, 2021.
13. Trial is expected to take approximately two (2) trial days.
14. A jury trial was not demanded and is waived.
15. This is a core proceeding under 28 U.S.C. § 157(b)(2)(N). The parties consent to the Bankruptcy Court entering a final order or judgment in this proceeding.

(Signatures on following page.)

Respectfully submitted:

JAFFE, RAITT, HEUER & WEISS, P.C.

JOHN R. FOLEY, P.C.

By: /s/ Jay L. Welford

Jay L. Welford (P34471)

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By: /s/ Patrick A. Foley

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Date: December 1, 2020

Date: December 1, 2020

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CERTIFICATE OF SERVICE

I hereby certify that on December 2, 2020, I caused to be served a copy of the *Amended Report Of Parties Rule 26(f) Conference* and this *Certificate of Service* using the Efile and Serve system which will send notification of such filing to all ECF participants.

/s/Tina M. Neddermeyer

Tina M. Neddermeyer

tneddermeyer@jaffelaw.com